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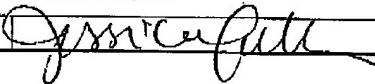
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In re Application of: Click, et al

Docket No.: PS5035P40-D

Serial No. : 10/697,855

Art Unit: 3617

Filed: 29 October 2003

Examiner: Le, Mark T.

Title: ASSIST ROD AND BASKET ASSEMBLY

Date: May 26, 2004

Re: Non-Final Amendment

To: United States Patent and Trademark Office
Fax: (703) 872-9306
Attention: Mark T. Le. Art Unit 3617

Pages (including coversheet): 5

Attached to this facsimile coversheet please find the following document:

- Response to Office Action (4 pages)

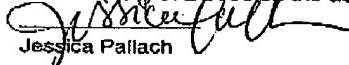
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5 
Jessica Pallach

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

10

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20

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

25

RESPONSE

Sir:

30

This is a Response to the Office Action, dated 28 April 2004, for the above-identified patent application.

Page 1 of 4

REMARKS**Election/Restrictions**

5

1. 35 U.S.C. §121. The Examiner required the application be to be restricted to one of two inventions under 35 U.S.C. §121, as follows:

- Group I. Claims 1-9, drawn to a front basket, classified in class 246; and
10 Group II. Claims 10-16, drawn to a rear basket, classified in class 246.

The Examiner further stated that such inventions were distinct because Groups I and II are subcombinations that are separately usable, and, in particular, that Group II has separate utility such as an actuating mechanism for a lock. The Examiner further stated

15 that searches required for Group I and Group II are not the same, and, therefore, restriction for examination is proper.

Applicant respectfully disagrees.

20 Because the groups as cited by the Examiner are best described by Claim 1 and 10, respectively, the following discussion focuses on such claims.

While the preamble of Claims 1 and 10 appear different in that Claim 1 refers to a basket housing for use in a basket assembly, while Claim 10 refers to a basket 25 assembly, such is a minor semantic difference.

Further, the Examiner's statement that the basket assembly would be useful as an actuating mechanism for a lock is confusing, as the technical field relating to locks is very different from the railroad switch field and the claims are limited to such field. In 30 the context of the Specification and the manner in which the terms are used in Claim 10 are defined, the invention described in Claim 10 is not useful as an actuating mechanism for a lock.

In addition, the elements described in Claim 1 and 10 are very similar, such that 35 examination of the structure claimed in Claim 1 would not necessitate a separate search, compared to the structure claimed in Claim 10. For example, both claims

Specifically refer to "an opening for receiving a rod or bar therethrough". Both claims also specifically refer to "an arm" associated with the assembly.

In Claim 10, the opening is referred to as being on a sliding element, on which an arm is rotatably mounted. In contrast, Claim 1 claims means to rotatably retain the arm. The sliding element in Claim 10 is therefore simply one embodiment of the means to rotatably retain the associated arm described in Claim 1. All of the elements in Claim 10 are therefore present in Claim 1, with the exception that Claim 1 also contains the element "at least one abutment for limiting lateral displacement of a surface associated with said rod or bar".

The two groups of claims therefore define slightly different embodiments of a basket arrangement. The groups do not claim sufficiently distinct inventions such that a restriction requirement is warranted.

Therefore, in view of the above, Applicant respectfully requests the Examiner's reconsideration and withdrawal of such requirement for restriction.

2. 37 CFR §1.143. Reconsideration of requirement.

Because a provisional election of one group of claims is required under 37 CFR §1.143, Applicant provisionally elects with traverse Group I for further prosecution in the event that the restriction request is repeated and made final.

CONCLUSION

5 Based on the foregoing, Applicant earnestly solicits the reconsideration and withdrawal
of the requirement for restriction raised in the above referenced Office Action. The
Examiner is invited to call to discuss the response. The Commissioner is hereby
authorized to charge any additional fees due or credit any overpayment to Deposit
Account No. 07-1445.

10

Respectfully Submitted,

15 Michael A. Glenn,
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Page 4 of 4